Human Resource Flexibilities

and Authorities

in the

Federal Government

Introduction

Many Federal agencies are in the midst of changing their human resource management systems to respond to organizational challenges. Downsizing, restructuring, recruiting and retaining a quality workforce are just some of the major issues driving human resource system change.

The Office of Personnel Management has designed this handbook to show agencies the myriad of options available currently under title 5 to assist with your change efforts. This can serve as a valuable tool to help your managers and personnelists redesign organizational structures, develop recruitment and retention strategies, and better manage existing workforces to meet organizational strategic goals. Through this handbook, you may be surprised to discover how flexible title 5 is in meeting your human resource challenges of the 21st century.

This handbook is divided into three major parts: Part 1 describes the foundation of our Governmentwide human resource system as a "single employer" and highlights the common policies that make for good public policy. Part II is designed for the General Schedule system, and Part III is for the Senior Executive Service. These are provided to help agencies address the following three organizational challenges:

1) Recruitment and Retention issues:

We often hear that managers have difficulty recruiting and retaining highly skilled employees. We have observed that many recruitment strategies focus primarily on salary to recruit and retain quality candidates. However, research suggests that employees decide to work for certain companies for many reasons, salary being only one factor considered. The Staffing, Compensation and Benefits sections will help you learn what is available to assist you in tailoring a recruitment strategy with a benefits package that meets the needs of highly skilled candidates.

2) Restructuring the Organization:

The Workforce Restructuring section will help you realign your organization. However, each section of the handbook will help you tailor your human resource system to meet your overall organizational goals.

Managing the existing workforce:

This handbook will help you redesign human resource systems that attract and retain a diverse and highly-qualified workforce. The Work Arrangements and Family Friendly sections will help you foster a greater balance of employees' work and leisure time for greater productivity and higher morale. The Performance Development & Training section will show you how to infuse new skills, and the Compensation and Performance Management sections will give you ideas for developing compensation and performance and awards systems that send clear messages that high performance is valued and rewarded.

Federal human resource policies continue to evolve in the Federal Government to respond to the changing times. For the latest information on Federal personnel policies, we invite you to check out our web site at http://www.opm.gov.

Once you have explored all the HR flexibilities available under title 5, we invite you to click onto our newly expanded website, What is a demonstration project? See how agencies are testing new approaches to paying and hiring people under the Demonstration Project Authority. These projects are the vehicle by which an agency obtains the authority to waive existing title 5 law and regulations to redesign their HR systems.

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Human Resource Flexibilities in the Federal Government

PART I: GOVERNMENTWIDE INTERESTS

For certain aspects of personnel management, conceiving of the Government as a "single employer" remains sound public policy. Consequently, it is important to retain Governmentwide approaches, authorities, entitlements, and requirements in several areas, including:

- Accountability for adherence to merit system principles;
- Employee protection from prohibited personnel practices;
- Veterans preference in employment and retention;
- A Governmentwide benefits system for retirement, insurance, and leave;
- A Governmentwide system for determining annual adjustments to the pay structures for General Schedule, Prevailing Rate System, and other employees;
- A statutory collective bargaining framework for labor management relations;
- A system of due process protections for employees related to adverse actions;
- A Governmentwide system for collecting and publishing workforce information;
- Executive management by members of the Senior Executive Service and Senior Foreign Service; and
- Oversight by the Office of Personnel Management.

In addition, certain principles that promote the public interest must guide agencies as they make use of these flexibilities. Such principles include:

- Making organizational improvements in partnership with employees and their representatives and in accordance with whatever bargaining and consultation rights are invoked by employee representatives;
- Maintaining budget discipline as personnel systems and authorities are changed;
- Insuring interagency mobility (i.e., policies should not inhibit or discourage movement in or out of the agency);
- Achieving reasonable Governmentwide internal equity; and
- Avoiding the escalation of payroll costs driven primarily by interagency competition for employees.

Within these broad parameters, agencies are free to:

- Make immediate use of the existing personnel flexibilities listed in Parts II and III of this document, and
- Pursue demonstration projects.

PART II: EXISTING PERSONNEL FLEXIBILITIES AND AUTHORITIES

A. STAFFING

Federal agencies have extensive flexibilities and authorities available to hire new employees for short and long-term assignments. The following is a list of flexibilities that agencies can use right now to attract and retain quality employees.

[For general questions, contact the Employment Service 202-606-0800]

1. The Federal Job Search Process

USAJOBS is the one-stop employment shop that provides access to over 6,000 daily updated job listings, full job announcements and fact sheets on commonly requested Federal employment topics.

USAJOBS has a three-step process that begins with Federal agencies listing job opportunities in the USAJOBS Governmentwide automated employment information system. Job seekers may access the system in any of the following ways:

- on the world wide web at http://www.usajobs.opm.gov;
- by electronic bulletin board at 912-757-3100;
- by telephone at 912-757-3100 (912-744-2299 TDD) or local telephone service available at 17 Office of Personnel Management Service Centers around the country; or
- touch screen computer kiosks located throughout the nation at our offices, Federal buildings, and some colleges and universities.

The second step is for job seekers to review the job announcements to determine eligibility and interest.

The third step is to follow the application instructions. Application for most jobs can be accomplished with a resume, the Optional Application for Federal Employment (OF-612), or any other written format. For unique jobs or those filled through automated procedures, special forms and instructions may be identified in the job announcement.

2. Recruiting and Examining

• Authority to conduct competitive examining for all positions (except administrative law judges). Requires delegation agreement between OPM and the agency.

[Pub. L. 104-52; 5 U.S.C. 1104(a)(2),; 5 CFR 2.1]

- Use of commercial recruiting firms and nonprofit employment services to recruit for vacancies. [5 CFR part 300, subpart D]
- Discretion to hire from a wide array of sources.

3. **Short-Term Staffing Needs**

• Waive the 40 hours per week limitation on basic pay from more than one position and recruit current **Federal employees for second jobs** when "required services cannot be readily obtained otherwise" and "under emergency conditions relating to health, safety, protection of life or property, or national emergency."

[5 U.S.C. 5533; 5 CFR part 550, subpart E]

• A **detail** within a department of its employees for brief periods. Intra-agency details in increments of 120 days are allowed when approved by the head of the department.

[5 U.S.C. 3341; 5 CFR 316, 334]

- Commercial temporary help services may be used for brief periods (120 days, with extension of additional 120 days) for short-term situations to hire intermittent employees. This option may be used only when regular recruitment and hiring procedures are determined to be impractical, and is accomplished through the Federal procurement system. [5 CFR part 300, subpart E]
- Agencies may also choose to enter into various types of contracts where appropriate. These contracts are also handled through the Federal procurement system.
- Use of **temporary appointments** for short term needs that are not expected to last longer than one year, of Veterans Readjustment Appointments that are used to appoint veterans in the excepted service up through the GS-11 or equivalent grade level, and of the streamlined student employment program for meeting future workforce needs. [5 CFR part 316, subpart D, part 340, and §213.3202]
- Use of **term appointments** for one to four years when the need for the employee's services is not permanent including, but not limited to, project work, extraordinary workload, scheduled abolishment, reorganization, or contracting out of the function, uncertainty of future funding, or the need to maintain permanent positions for placement of employees who would otherwise be displaced from other parts of the organization. Recruitment is accomplished through the competitive process. [5 CFR part 316, subpart C]

• Employment of experts or consultants for temporary or intermittent employment. The excepted service appointment of expert and consultants under 5 U.S.C. 3109 to perform expert or consultant work that is temporary (not to exceed one year) or intermittent. (This differs from employing experts and consultants through procurement contracts, which are covered by regulations issued by the General Services Administration.) Under 5 CFR part 304, an expert is someone who is specifically qualified by education and experience to perform difficult and challenging tasks in a particular field beyond the usual range of achievement. A consultant is someone who can provide valuable and pertinent advice generally drawn from a high degree of broad administrative, professional, or technical knowledge or experience.

[5 U.S.C. 3109; 5 CFR part 304; agency's own legislation]

4. <u>Alternative Staffing Options</u>

- Authority to **appoint veterans** in the excepted service under the Veterans Readjustment Appointment. This is a special authority under which agencies can appoint an eligibile veteran up through the GS-11 or equivalent grade level without competition. The candidate must meet specific service requirements along with the applicable qualification requirements. [5 CFR part 307]
- The authority to appoint graduate and undergraduate students in the excepted service under the Student Educational Employment Program. There are two components of this program: the Student Temporary Employment Program (STEP) and Student Career Experience Program (SCEP). These are special authorities under which agencies can appoint students who are enrolled or have been accepted for enrollment in at least a part-time schedule at an accredited institution. Appointment in the STEP program is not to exceed one year, and may not be converted to permanent. Individuals in the SCEP program may be noncompetitively converted to career/career-conditional appointments within 120 days of academic requirements completion. Students hired under SCEP may be granted tuition assistance by the hiring agency.

 [5 CFR 213.3202]
- Making appointments with varying work schedules such as part-time (which may include job sharing arrangements), intermittent, and seasonal is a viable option to manage fluctuating and less than full-time workforce needs. Intermittent work schedules are used only when the nature of the work is sporadic and unpredictable. Seasonal work involves annually recurring periods of work that is expected to last at least six months during a calendar year. The use of varying work schedules may serve as an incentive to attract applicants who prefer to work less than full-time. (See Section D for more Work/Life policies that promote a more flexible workforce).
 [5 CFR part 340]

5. <u>Probationary Period</u>

• Discretion to remove, with few procedural requirements, new appointees, supervisors, and managers during their probationary period.

[5 CFR part 315, subparts H and I]

6. <u>Lateral and Upward Movement</u>

- Authority to determine the knowledge, skills, and abilities, and to define the
 specialized experience required to perform each job. Use of training agreements
 under which employees can be given accelerated training or on-the-job experience
 to gain new skills more rapidly. [Office of Personnel Management Operating
 Manual: "Qualification Standards for General Schedule Positions"]
- Authority to design their own merit promotion plans. [5 CFR part 335]
- Authority to establish career ladders that allow noncompetitive promotion based on performance and acquisition of appropriate knowledge and skills.

[5 CFR part 335]

7. Workforce Restructuring

[Contact: Workforce Restructuring Office at 202-606-0960]

- **Critical Management Considerations**: There are several critical management issues that must be considered to determine the best approach for downsizing or restructuring the workforce. These include:
 - Scope. What is the size of the cutback/restructuring? Is it budget driven, program related, or required in order to meet mandated employment reductions? The size and type of change affects the tools that you use and the amount of time that you have to work with.
 - Timing. The time you have available to effect the restructuring will dictate your strategies. The more time you have, the better, and the less likely you will need drastic measures like reduction in force. Start as soon as possible. It is important to identify where your cuts need to be made and concentrate your tools and strategies on that population.
 - Targeting. Across-the-board cuts are less effective than targeted cuts, and can leave the agency without the staff to perform critical mission related functions. Identify which functions will cease, which ones will be

consolidated, and which ones will remain. Once the functions to be eliminated or consolidated are identified, then management can identify and target the positions to be cut.

- Flexibility. Be flexible on the types of strategies you can use to effect the downsizing or restructuring. There are multiple strategies available. Remember that reduction in force is a last resort. Ensure that your strategies are compatible with the corporate mission and goals.
- Multiple Strategies. There are many tools and strategies available to effect your downsizing and restructuring. Consider one or more alternatives that best fit your goals and the organization.

There is no "one-size-fits-all" formula for successful restructuring. Depending on the specific situation, you may want to consider some of the restructuring strategies outlined here:

- **Inplacement Programs**. Agencies can implement a strong inplacement program, whereby vacancies are frozen and surplus employees are given priority consideration for them, before they can be filled through other means. This can reduce outside hiring and create vacancies for surplus employees.
- **Freezes on Hiring and Promotions**. This can be effective in reducing personnel costs. Hiring can be limited more easily than promotions. A "1 for 2" or "1 for 3" limit on replacement hiring is often more effective than a total freeze. Promotion freezes are more difficult to administer.
- Voluntary Reduction of Hours. This option gives employees an opportunity to reduce the number of hours they work, or convert to a part-time work schedule, and saves personnel dollars. You may find that employees are willing to do this in order to meet family or educational needs. One way to use this approach is to survey your employees to determine the level of interest, i.e., what grade levels and how many hours so that you can project cost savings.
- Separate Temporary Employees and Reemployed Annuitants. By releasing them, you can save payroll dollars.
- **Detail Employees on a Reimbursable Basis to Other Agencies**. This works well where agencies have a need for a specific skill of an employee. When many other agencies are also downsizing or restructuring, this may not be a viable option.

- Encourage Employees to Take Leave Without Pay. This is similar to asking employees to take a voluntary reduction in hours. Employees may be willing to take a day of leave without pay per pay period, for example, thereby reducing personnel costs.
- Furlough Employees for Short Periods of Time. You can temporarily reduce personnel costs by placing your employees on furloughs of less than 30 days. This can also be done on a discontinuous basis, e.g., one day each week, for up to a total of 22 calendar days. (Furloughs of more than 30 days are more complicated, and require using reduction in force procedures.) If you decide to do this, plan carefully, discuss with your employees, managers, and supervisors, and union officials. Any furlough plan should be equitably applied, with considerations for the financial impact it will have on employees. Employees have to be notified 30 days in advance and can appeal improper actions to the Merit Systems Protection Board.
- Reassign Career Employees from Surplus to Continuing Positions. The positions may be in the same or in different commuting areas. The reassignments are not subject to reduction in force procedures as long employees are not involuntarily reduced in grade.
- Voluntary Change to Lower Grade. Agencies may offer an employee a voluntary change to lower grade without the use of reduction in force procedures. However, an employee has the right to compete under the reduction in force regulations before the agency may involuntarily separate or downgrade the employee for a reason such as reorganization, lack of work, shortage of funds, or insufficient personnel ceiling.
- Modify or Waive Qualification Requirements. At its discretion, the agency
 may waive minimum qualification requirements if the agency determines that the
 employee has the capacity, adaptability, and special skills needed to perform the
 duties of the positions.
- Train Employees for Other Positions in the Agency. Train employees for reassignment to agency positions for which a shortage exists.
- Train Employees for Positions in Other Agencies. Public Law 103-226 allows an agency to train any of its employees to assist in placing them in other agencies if the head of the present agency determines that the training would be in the best interests of the Government. The law removes the provision in 5 U.S.C. 4103(b) that made eligibility for such training contingent upon the employee's eligibility for severance pay as a result of an involuntary separation. In selecting an employee for training, the agency head must consider the extent to which the employee's

current skills, knowledge and abilities may be utilized in the new position; the employee's capability to learn skills and acquire knowledge and abilities needed in the new position; and the benefits to the Government that would result from such training.

- Outplacement Programs. An aggressive outplacement program may include: career counseling; application referrals; job search counseling; granting administrative leave to interview for other jobs; use of the "Certificate of Expected Separation" or other advance notice to provide employees with early registration in appropriate placement and/or training programs.
- Moving People to Other Positions. Agencies should consider moving people to other positions on a temporary, or even a permanent basis, if an organization has excess personnel because of restructuring. In some situations, agencies may move employees from surplus positions into other continuing positions within the agency.
- Directed Reassignments. Agencies should consider reassigning surplus employees from an organization facing a personnel reduction into vacant continuing positions located in organizations not affected by the cutbacks. At agency discretion, the agency may reassign employees to positions at the same grade located in the same, or a different, commuting area. Reassignments are not subject to reduction in force procedures as long as employees are not involuntarily reduced in grade. Unless the agency elects to implement a policy that requires it to consider an employee's relative retention standing in carrying out reassignment, there is no requirement in the regulations that directed reassignments must be made on the basis of the four reduction in force retention factors (i.e., tenure, veterans preference, length of service, and performance ratings). An agency may reassign an employee to any position for which the employee is qualified, or for which the agency modifies qualifications standards.
- Voluntary Relocation of Surplus Employees. Some employees may be willing
 to voluntarily relocate to positions outside the local commuting area.
 Considerations include the cost of travel and relocation expenses, possible
 disparity in grade level between headquarters and field offices, and possible
 orientation or retraining costs required by the new position.
- Details. Agencies should consider whether employees in surplus positions can be detailed from the surplus positions to other positions. This provides the employee with additional work experience, and allows the agency additional time to place the surplus employee into another continuing position. Another possible option is to consider whether employees in surplus positions can be detailed on a reimbursable basis to other organizations in the same agency, or even to a different agency.

- Competitive procedures apply where the agency wishes to continue a detail of an employee to a higher-graded position for more than 120 days.
- Organizational Flattening. Another reassignment option assists the agency in restructuring the way it performs work while minimizing harm to individual employees. Under the agency's general authority to reassign, the agency may reassign employees from supervisory to nonsupervisory positions at the same grade. This option can be an effective method in reducing the layers of supervision and flattening the organization. However, the position classifier may have to review the nonsupervisory position in order to ensure that it can properly remain at the same grade level as the employee's former supervisory position. If the nonsupervisory position is at a lower grade than the supervisory position, the agency must conduct a reduction in force before an employee is involuntarily separated or downgraded. To achieve the goal of organizational flattening, the agency should also consider the option of using more team leaders and fewer first-level supervisors.
- Voluntary Changes to Lower Grade. Some surplus employees may be willing to accept a voluntary change to lower grade. The agency has the option to offer saved grade and/or saved pay to eligible employees who might be reduced in grade as the result of a reorganization or reclassification decision announced by the agency in writing. Acceptance of the lower-graded position must be voluntary on the part of the employee. The agency must conduct a reduction in force before an employee is involuntarily separated or downgraded.
- Request Authority from the Office of Personnel Management (OPM) to Offer Expanded Voluntary Early Retirement. An agency may request OPM to approve voluntary early retirement when components will undergo a major reduction in force, reorganization, or transfer of function. The purpose of Voluntary Early Retirement Authority (VERA) is to assist an agency in completing a major personnel or workload change with minimal disruption to the workforce. Senior employees who retire under a VERA create vacancies that can be filled by employees who might otherwise be involuntarily separated because of restructuring.
- **Discontinued Service Retirement**. Employees whose jobs are abolished and who face involuntary separation can qualify for an immediate annuity if they meet early retirement eligibility (i.e., 25 years of service at any age or 20 years of service and at least age 50). Availability of discontinued service retirement gives agencies a valuable tool to lessen the impact of an involuntary separation of a long-service employee. Agencies now have greater flexibility to offer discontinued service retirement to certain employees occupying the same or identical position descriptions.

- Voluntary Separation Incentive Payments (Buyouts). Beginning with the Public Law 102-484 (the National Defense Authorization Act of 1993), Department of Defense employees in downsizing situations have the potential opportunity to receive a Voluntary Separation Incentive Payment of up to \$25,000. This payment is made to Defense employees who resigned, retired under a voluntary early retirement authority, or retired optionally. This option is presently available to Defense through September 30, 2001. Public Law 103-226 (The Federal Workforce Restructuring Act of 1994) offered many non-Defense agencies the option of offering buyouts through March 30, 1994. Later Section 663 of Public Law 104-208 authorized buyouts for non-Defense agencies through December 30, 1996. Several non-Defense agencies have received their own authority to offer buyouts to employees impacted in restructuring situations.
- Employee Benefits Counseling. Employees who may retire early, or who may be reached for involuntary actions such as separation, downgrading, or relocation, need current, accurate and personal information regarding their benefits, such as estimated annuities, survivor benefits, health and life insurance entitlement, severance pay, and unemployment compensation. Agencies should ensure that employees' counseling is handled in a confidential manner by a trained benefits counselor. For potential retirees, the agency can offer general preretirement workshops to all employees who are eligible for either voluntary early or optional retirement. As part of their career transition program, agencies are encouraged to establish career transition centers in order to assist in placing employees who might otherwise be reached for reduction in force. Agencies can establish a career transition center staffed by its own employees or outside consultants.
- Career Transition/Outplacement Services. These may include: sponsoring job fairs to provide employers an opportunity to provide information to prospective employees about their company, to discuss job openings, and to interview job candidates; leading the establishment of job clubs to share employment opportunities, train job club leaders, and facilitate weekly job club meetings; networking with local public and private sector employers, as well as with local associations, such as the Chamber of Commerce, that can assist with career transition, placement, and retirement programs; maintaining liaison with state employment offices that can assist in referrals for employment, and explain employees' entitlement to unemployment compensation; assisting employees in resume preparation, interviewing techniques, and tips for successful job hunting; providing, through automated information systems, demographic information on occupational listings and job openings, cost of living data, economic forecasts, etc.; coordinating workaday training and workshops on topics such as "Resume Preparation," "Financial Awareness," "Career Transition," and "Retirement Counseling."

• Department of Labor and State Employment Service Activities. The State Employment Offices offer many services for employees facing the possibility of job loss. For those facing unemployment, the local state employment office serves not only to make referrals but is usually the office where employees get unemployment compensation. If planned in advance, many such offices will provide personnel who will come on-site to register employees and explain their rights and benefits. Employment counselors may also be available to be on-site for lunch time presentations to job clubs. Early contact with the state employment office is often beneficial to allow the local office to prepare for registration of displaced employees.

B. WORK ARRANGEMENTS

1. Hours of Work and Scheduling Flexibilities

 Agencies have the discretionary authority to determine the hours of work for their employees.

[5 U.S.C. Chapter 61, subchapters I and II; 5 CFR part 610]

- Agencies have the authority to establish:
 - Full-time, part-time, intermittent, and seasonal work schedules;
 - Hours of work for employees, including traditional day shifts, night and weekend duty, rotating shifts, "first-40" schedules, paid and unpaid (not to exceed one-hour) breaks in the workday, and overtime;
 - Alternative work schedules to replace traditional schedules (i.e., 8 hours per day/40 hours per week, with fixed starting and stopping times) with the following:
 - Compressed work schedules (CWS). Compressed work schedules are fixed work schedules that enable full-time employees to complete the basic 80-hour biweekly work requirement in less than 10 workdays.
 - Flexible work schedules (FWS). Flexible work schedules consist of workdays composed of core hours and flexible hours. Core hours are the designated period of the day when all employees must be at work. Flexible hours are the part of the workday when employees may (within limits or "bands") choose their time of arrival and departure. An agency's FWS plan may permit employees to earn credit hours.
 - Alternative work schedules for bargaining unit employees are established by negotiated agreements.
 - We have issued a <u>Handbook on Alternative Work Schedules</u> which provides a framework for Federal agencies to consult in establishing alternative work schedules and provides information to assist agencies in administering such programs. This handbook can be found on our web site at www.opm.gov.
- <u>Telecommuting</u> -- allows employees to work at home or at another approved location away from the regular office.
- Part-time Employment and Job Sharing -- are available options that may help

<u>Subsidized transportation</u> is provided by many Federal agencies.						

C. FAMILY FRIENDLY POLICIES

The Federal Government is a leader in providing family oriented leave policies and flexitime and telecommuting arrangements. This includes the use of flexible work schedules and telecommuting; leave programs (leave sharing, leave banks, leave for medical conditions and family responsibilities); part-time employment and job sharing; Employee Assistance Programs; on-site child development centers; and information and referral services. The Government is committed to helping employees meet the responsibilities of work and home life.

1. Alternative Work Schedules

Alternative work schedules allow employees to work several types of workweeks other than the traditional eight hours per day or 40 hours per week. Hours per day and starting and quitting times each day may vary; and, in some cases, employees may be permitted to work fewer than ten days in a two-week period. [Refer to the Work Arrangements section.]

2. <u>Telecommuting</u>

Telecommuting allows employees to work at home or at another approved location away from the regular office. A telecenter is a multi-agency facility that provides a geographically convenient office setting as an alternative to the employee's main office. A telecenter can also serve as an administrative support center for employees working at home.

3. Family-Friendly Leave

[Refer to the Leave Section.]

- Leave sharing programs allow coworkers to voluntarily transfer some of their annual (vacation) leave to specific coworkers or to a leave bank to assist coworkers in dealing with a personal or family medical emergency.
- Family and Medical Leave Act ensures that up to 12 weeks per year of unpaid family and medical leave are available on a gender-neutral basis and mandates job security for employees who take such leave.
- Paid leave for family care and related purposes is sick leave that can be used to care for family members, to arrange for or attend funeral services of family members, and for absences relating to adopting a child. Federal employees can receive additional paid leave to serve as bone-marrow or organ donors.
- Sick leave and annual (vacation) leave policies are generous. Federal employees earn 13 days of sick leave each year. There is no ceiling on the amount that may

be carried over from year to year. Annual leave accrued in the first year is 13 days. Employees earn additional annual leave as their tenure with the Federal Government increases, up to a maximum of 26 days per year. Most employees can accrue a total of up to 30 days of annual leave.

4. Part-time Employment and Job Sharing

These are available options that may help balance an employee's work and family responsibilities.

5. <u>Employee Assistance Program (EAP)</u>

[Refer to the Benefits section.]

These programs provide a variety of confidential services, including counseling and referrals, to employees who are experiencing personal problems such as work and family pressures, substance abuse, and financial problems that can adversely affect performance, reliability, and personal health.

6. <u>On-site/near-site Child Development Centers</u>

Many Federal agencies also provide on-site child development centers. There are approximately 1,000 worksite child care centers sponsored by the civilian and military agencies.

7. Child and Elder Care Assistance

Child and elder care are available to help employees with child and elder care needs. Many agencies offer referral assistance to community resources, provide lunch and learn seminars, and sponsor caregiver fairs. We recently updated the *Handbook of Child and Elder Care Resources*, which provides employees, managers, and employee assistance counselors with information about organizations and agencies across the country that can help employees locate quality child and elder care services. In addition, we recommend two resource and referral services that direct callers to local services providers and community resources: (1) Child Care Aware on 1-800-424-2246, and (2) the Elder Care Locator on 1-800-677-1116.

8. <u>Subsidized Transportation</u>

Subsidized transportation is provided by many Federal agencies.

D. BENEFITS

1. Employee Assistance Programs

Employee Assistance Programs (EAPs) help employees and, where feasible, their families with problems that may affect their well-being and their ability to do their jobs. These worksite programs, which are generally available to all Federal employees, offer cost-free, confidential employee counseling and referral to community treatment and/or professional services, as appropriate. Although agencies are only required by law to establish and administer employee counseling programs that deal specifically with alcohol and drug problems, most agencies have "broad brush" EAPs that offer help for a variety of other problems. These EAPs offer counseling and referral services for problems such as mental, emotional, family, financial, dependent care, and legal difficulties.

In addition to providing individual counseling, EAPs also play a key role in educating employees on a variety of health and assistance topics such as HIV/AIDS, money management, parenting, caring for aging parents, stress management, and selecting quality child care.

The basic services of EAPs include:

- Confidential, free, short-term counseling to identify and assess the problem(s) and to assist employees in problem solving.
- Referral, where appropriate, to a community service or professional resource that provides treatment and/or rehabilitation. With the exception of illness or injury directly resulting from employment, medical care and treatment are personal to the employee and, therefore, payment may not be made from appropriated funds unless provided for in a contract of employment or by statute or regulation.
- Follow-up services to assist an employee in achieving an effective readjustment to his or her job during and after treatment, e.g., back-to-work conferences.
- Training sessions for managers and supervisors on handling work-related problems that may be related to substance abuse or other personal, and/or health-related problems.
- Orientation and educational programs to familiarize all employees with the services of our programs and how to access them.
- Briefings to educate management and union officials on the role of our programs.

In addition, the Employee Assistance Program can be extremely important in the prevention of, and intervention in, workplace violence incidents; the delivery of critical incident stress debriefings; and providing assistance to employees during agency restructuring.

2. Holidays

Most Federal employees are entitled to 10 paid holidays each year.

[Executive Order 11582; 5 CFR 610.201, 202]

3. <u>Leave</u>

[Refer to the Family-Friendly Policies section.]

Sick leave and annual leave policies are generous. Federal employees earn 13 days of sick leave each year. There is no ceiling on the amount of sick leave that can be carried over from year to year. Federal employees also earn 13 days of annual leave during each of their first 3 years of Federal employment. This exceeds the norm of 2 weeks (10 days) in the private sector. Employees earn additional annual leave as their tenure with the Federal Government increases, up to a maximum of 26 days per year after 15 years of service. Most employees can accrue a total of up to 30 days of annual leave for carryover into the next leave year. Senior Executive Service members can accrue up to 90 days of annual leave for carryover. Other leave programs include:

- Leave sharing programs -- allow coworkers to voluntarily transfer some of their annual leave to specific coworkers or to a leave bank for the benefit of all eligible coworkers.
- Family and Medical Leave Act -- ensures that up to 12 weeks per year of unpaid family and medical leave are available on a gender-neutral basis and mandates job security for employees who take such leave.
- Other Leave Flexibilities -- sick leave can be used to care for family members, when arranging for or attending funeral services of family members, and for absences relating to adopting a child. Federal employees can receive additional paid leave to serve as a bone-marrow or organ donor. [5 CFR part 630]

4. <u>Life insurance</u>

Most full-time and part-time employees are automatically enrolled in Basic Life Insurance equal to their salary, rounded to the next \$1,000, plus \$2,000. The government pays one-third of the cost of this group term insurance. Employees do not have to prove insurability -- no physical is required. Basic coverage includes double benefits for accidental death and benefits for dismemberment. Employees can also purchase Optional Insurance at their own expense.

Optional coverage includes additional insurance on the employee's life as well as coverage for the employee's spouse and eligible children, if any.

Accelerated death benefits are available to terminally ill enrollees so that they can receive life insurance proceeds while they are living.

Many large organizations are cutting life insurance benefits to retirees. Untrue in the Federal Government, which allows **life insurance** to be continued into retirement. It can also be converted to private coverage upon termination, without proof of insurability.

In addition to offering the life insurance program, agencies can pay up to \$10,000 as a death gratuity to the personal representatives of employees who die from injuries sustained in the line of duty.

[5 CFR part 870]

5. Health insurance

Federal employees can enroll in health insurance coverage for themselves and their families at reasonable rates. They enjoy one of the widest selections of plans in the country. Over 370 plans participate in the health insurance program. Employees can choose among fee-for-service plans, health maintenance organizations, and point-of-service plans. There is an annual open season during which employees can change their enrollment. Unlike a growing number of private sector health benefits programs, Federal employees can continue their health insurance coverage into retirement with a full Government contribution. Most enrollees pay only one-fourth of the health benefits premium.

[5 CFR part 890]

6. Pensions

The Federal Employees Retirement System (FERS) is an outstanding three-tiered plan to provide secure retirement, disability and survivor benefits for employees and their dependents. In addition to Social Security benefits as a base, FERS offers both an annuity that grows with length of service and a tax deferred savings plan. Employees pay less than one percent of salary to qualify for the annuity and are fully vested after five years of service and, for disability benefits, after just 18 months.

[5 CFR part 843]

7. Thrift Savings Plan

The **savings plan** allows employees to save up to ten percent of salary for retirement. The Government contributes one percent of salary to employees who do not contribute and will match up to another four percent of savings for employees who do contribute. Because the savings plan is tax deferred, no income tax is due on either the employee's contributions or the Government

matching funds, or the earnings on those amounts, until retirement. Employees can choose to invest in any of three funds, or to spread investments across the three funds: a Government securities fund, a bond fund, and a stock fund, all professionally and securely managed by an independent Government agency, the Federal Retirement Thrift Investment Board. A broader selection of investment funds is planned for the near future. Since the inception of FERS in 1987, the performance of this state-of-the-art retirement system has been excellent.

[26 U.S.C. 401(a), 501(a), and 7701(j)]

8. <u>Liability Insurance</u>.

A recently enacted law provides Federal agencies with the option of using available funds to reimburse law enforcement officers and managers for up to one-half of the cost of professional liability insurance, protecting them from potential liability and attorneys fees for actions arising out of the conduct of official duties.

E. COMPENSATION

Agencies have considerable discretionary authority to provide additional direct compensation in certain circumstances to support their recruitment, relocation, and retention efforts. The following summarizes some of these compensation flexibilities:

1. Agency-Based Discretionary Authorities

[For general questions, contact Compensation Administration at 202-606-2880]

Advanced Payments for New Appointees

Agencies may advance a new hire up to two paychecks so that a new employee can meet living and other expenses. [5 U.S.C. 5524a; 5 CFR part 550, subpart B]

Highest Previous Rate

Upon reemployment, transfer, reassignment, promotion, demotion, or change in type of appointment, agencies have discretionary authority to set the rate of basic pay of an employee by taking into account a rate of basic pay previously received by an individual while employed in another civilian Federal position (with certain exceptions), not to exceed the maximum rate of the employee's grade.

[5 U.S.C. 5334(a); 5 CFR 531.202 (definition of "highest previous rate") and 531.203(c) & (d)]

• Premium Pay, Exceptions to the Biweekly Limitation

The head of an agency or his or her designee may make an exception to the GS-15, step 10, biweekly limitation on premium pay when he or she determines that an emergency involving a direct threat to life or property exists. If the head of an agency determines that such an emergency exists, the premium pay paid to an employee performing work in connection with that emergency, when added to the employee's rate of basic pay (including any locality payment or special salary rate), must not cause his or her total pay to exceed the rate for GS-15, step 10 (including any locality payment or special salary rate), on an annual basis. (Note: The biweekly and annual premium pay limitations do not apply to law enforcement officers.)

[5 U.S.C. 5547(b); 5 CFR 550.106]

• Recruitment and Relocation Bonuses

Agencies have discretionary authority to make a lump-sum payment of up to 25 percent of basic pay to a newly appointed employee (in the case of a recruitment bonus) or to an employee who must relocate (in the case of a relocation bonus) to fill a position that

would otherwise be difficult to fill. In return, the employee must sign a service agreement with the agency. A recruitment bonus may be used in combination with superior qualifications appointments. Recruitment and relocation bonuses must be paid in accordance with the agency's previously established recruitment and relocation bonus plans. Recruitment and relocation bonuses are subject to the aggregate limitation on total pay (currently \$151,800).

[5 U.S.C. 5753; 5 CFR part 575, subparts A and B]

Retention Allowances

Agencies have discretionary authority to make continuing (i.e., biweekly) payments of up to 25 percent of basic pay to individual employees and of up 10 percent of basic pay to a group or category of employees based upon a determination by the agency that (1) the unusually high or unique qualifications of the employees or a special need of the agency for the employees' services makes it essential to retain the employees, and (2) the employee or a significant number of employees in the targeted category would be likely to leave the Federal Government (for any reason, including retirement) in the absence of a retention allowance. Retention allowances must be paid in accordance with the agency's previously established retention allowance plan and must be reviewed and certified annually. Retention allowances are subject to the aggregate limitation on total pay (currently \$151,800). [5 U.S.C. 5754; 5 CFR part 575, subpart C]

• Superior Qualifications Appointments

[Contact: Employment Service at 202-606-0800]

Federal agencies have the authority to set pay for new appointments or reappointments of individuals to General Schedule positions above step 1 of the grade based on superior qualifications of the candidate or a special need of the agency. Agencies must have documentation and recordkeeping procedures on making superior qualifications appointments in place in order to make such appointments.

[5 U.S.C. 5333; 5 CFR 531.203(b)]

• Travel and Transportation Expenses for Interviews and/or New Appointments

[Contact: Employment Service at 202-606-0800]

An agency, at its discretion, may pay the travel or transportation expenses of any individual candidate for a pre-employment interview or pay travel and transportation expenses for a new appointee to the first post of duty. For either payment, a decision made for one vacancy does not require a like decision for any similar future vacancies. Before authorizing any payments, the agency must consider factors such as availability

of funds, desirability of conducting interviews, and feasibility of offering a recruiting incentive. [5 U.S.C. 5706b; 5 CFR part 572]

Waiver of Dual Pay Limitation

[Contact: Employment Service at 202-606-0800]

Agencies have authority to waive the limitation (40 hours per week) on aggregate basic pay, when "required services cannot be readily obtained otherwise" and "under emergency conditions relating to health, safety, protection of life or property, or national emergency." This authority enables an agency to employ a full-time Federal employee in a second job or to schedule a part-time agency employee with multiple part-time appointments to work more than an aggregate of 40 hours during a week. The agency pays overtime ONLY when an individual works more than 8 hours per day or 40 hours per week for the SAME agency.

[5 U.S.C. 5533; 5 CFR part 550, subpart E]

2. Authorities Available with OPM and/or OMB Approval

• Critical Position Pay Authority

[Contact: Office of Executive Resources at 202-606-1610]

Based on a recommendation from us, the Office of Management and Budget (OMB) is authorized to increase the rate of basic pay for a position up to the rate for level I of the Executive Schedule (currently \$151,800). Critical pay may be authorized for a position that requires expertise of an extremely high level in a scientific, technical, professional, or administrative field or one that is critical to the agency's successful accomplishment of an important mission. Critical pay may be granted only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position.

[5 U.S.C. 5377; OMB Bul. No. 91-09]

• Physicians' Comparability Allowance

[Contact: Compensation Administration at 202-606-2880]

In order to recruit and retain highly qualified Government physicians, the head of an agency may enter into a service agreement with a Government physician that provides for the payment of a physicians' comparability allowance (PCA) for the duration of such agreement. The head of an agency determines the size of the PCA, which may not exceed \$14,000 per annum for a physician who has served as a Government physician for more than 24 months. An agency plan for implementing the PCA program must be approved by the Office of Management and Budget before an agency may pay a PCA to a physician.

[5 U.S.C. 5948; 5 CFR part 595]

• Reemployment of Military and Civilian Retirees

[Contact: Employment Service at 202-606-0800]

Laws on dual compensation prohibit reemployed military and civilian retirees from getting the full combined value of their salaries and annuities. When an agency encounters exceptional difficulty in recruiting or retaining a qualified candidate for a particular position, the agency head may ask us to waive the dual compensation prohibition on a case-by-case basis. The law also permits an agency to ask us to delegate the waiver authority to the agency head to deal with "an emergency . . . or other unusual circumstance." The agency head would exercise that authority on a case-by-case basis only as needed to deal with the emergency or other unusual circumstance, and only for annuitants rehired for a limited time period.

[5 U.S.C. 5532(g), 8344(i), and 8468(f); 5 CFR part 553, subpart B]

• **Retention Allowances** [Contact: Compensation Administration at 202-606-2880]

Upon the request of the head of an agency, we may approve a retention allowance in excess of 10 percent, not to exceed 25 percent, of an employee's rate of basic pay for a group or category of employees based upon a determination by the agency that (1) the unusually high or unique qualifications of the employees or a special need of the agency for the employees' services makes it essential to retain the employees, and (2) a significant number of employees in the targeted category would be likely to leave the Federal Government (for any reason, including retirement) in the absence of a retention allowance. Retention allowances must be paid in accordance with the agency's previously established retention allowance plan and must be reviewed and certified annually. Retention allowances are subject to the aggregate limitation on total pay (currently \$151,800).

[5 U.S.C. 5754; 5 CFR part 575, subpart C]

Special Salary Rates

We are authorized to establish higher special rates of pay for an occupation or group of occupations nationwide or in a local area based on a finding that the Government's recruitment or retention efforts are, or would likely become, significantly handicapped without those higher rates. The minimum rate of a special rate range may exceed the maximum rate of the corresponding grade by as much as 30 percent. However, no special rate may exceed the rate for Executive Level V (currently \$110,700). A special rate request must be submitted to us by department headquarters and must be coordinated with other Federal agencies with employees in the same occupational group and geographic area.

[5 U.S.C. 5305; 5 CFR part 530, subpart C]

• Title 38 Flexibilities for Health Care Employees

Upon the request of the head of an agency, we may delegate the discretionary use of certain Department of Veterans Affairs' personnel authorities under chapter 74 of title 38, United States Code, to help recruit and retain employees in health care occupations. We have entered into title 38 delegation agreements with the Departments of Defense, Health and Human Services, Justice, and Veterans Affairs for employees covered under chapter 51 of title 5, United States Code, (excluding members of the Senior Executive Service) performing direct patient-care services or services incident to direct patient care. Under these delegation agreements, agencies may establish and use certain title 38 authorities such as the special salary rate, premium pay, qualifications-based grading system, and physician and dentist special pay authorities.

[5 U.S.C. 5371; 5 CFR part 595]

F. CLASSIFICATION

Although there is a single statutory classification system for General Schedule employees (as well as for Prevailing Rate System employees), the use of various administrative flexibilities increases the system's effectiveness in responding to organizational changes and workload shifts.

1. Generic or Job Family Standards [Contact: Classification Programs at 202-606-2950]

• This broader approach to job evaluation provides flexibility to organize work along mission-critical lines and to make better use of interdisciplinary procedures in staffing positions. It also allows more use of shortened position descriptions.

[5 U.S.C. 5105; 5 CFR part 511]

2. Automated Procedures

• Use of automated procedures has streamlined the development of position descriptions and the evaluation of positions.

3. <u>Delayering Support</u>

 The revised General Schedule Supervisory Guide deleted the number of people supervised as a factor in setting grade levels. In collaboration with agencies, we have developed guidelines for Team Leader positions as a tool to facilitate delayering.
 [General Schedule Supervisory Guide, TS 123, April 1998]

4. Job Redesign

• Sometimes positions are difficult to fill because the pool of available candidates lacks a particular qualification for the job or has higher-level skills that pay more in the private sector. Agencies have the discretion to redesign the duties of these positions by eliminating a higher-level skill so that more candidates may qualify for the position or by adding higher-level skills and upgrading the position so that higher starting salaries may be offered. Agencies may also redesign jobs to make them more appealing to candidates by adding desirable duties and eliminating undesirable duties.

G. PERFORMANCE MANAGEMENT¹

The Office of Personnel Management has substantially deregulated performance appraisal and awards policies within the limits of existing statute and with the express intent of promoting decentralized systems and programs that conform to specific agency mission and culture. A performance management system tailored to meet your agency's needs can promote a high performance organization where high performers are successfully recruited and retained.

[For general questions, contact the Office of Workforce Compensation and Performance Service at 202-606-2800.]

1. Performance Planning and Appraisal

- Authority to establish a flexible agency performance appraisal system and to decentralize the design and operation of specific appraisal programs, including:
 - Using as few as two and as many as five summary levels in official ratings of record;
 - Appraising employee performance using at least one critical element that addresses individual performance;
 - Flexibility to incorporate performance goals and objectives measured at team and organizational levels into performance planning; and
 - Flexibility to take group and organizational performance into account when assigning ratings above "Unacceptable." [5 CFR part 430, subpart B]

2. Incentive Awards and Recognition

• Authority to grant a cash award to an employee, individually or as a member of a group, up to \$10,000 without external approval, up to \$25,000 with our approval, and in excess of \$25,000 with Presidential approval. Awards based on ratings of record may not exceed 20 percent of the employee's rate of basic pay excluding locality adjustments. Cash award payments are subject to the aggregate limitation on total pay equal to the rate of pay for Executive Level I.
[5 U.S.C. 45; 5 CFR part 451]

¹ "Performance management" in the context of personnel authorities relates to the management of **employee** performance (i.e., planning, developing, appraising, and rewarding employee contributions), rather than performance-based or performance-oriented approaches to managing, measuring, and accounting for agency **program** performance. The two concepts can and should be linked and integrated, but they remain distinct in some respects, particularly regarding establishing individual accountability and dealing with poor performers.

- Agencies have discretionary authority to grant an employee a lump-sum cash award based on a "Fully Successful" or better rating of record or in recognition of accomplishments that contribute to the efficiency, economy, or other improvement of Government operations. Cash awards do not increase an employee's basic pay. Awards based on the rating of record can be up to 10 percent of salary, or up to 20 percent for exceptional performance, provided the award does not exceed \$10,000 per employee.
 [5 U.S.C. 4302, 4503, 4505a; 5 CFR 451.104]
- Authority to grant **time off** from duty without charge to leave or loss of pay as an award and to grant honorary, nonmonetary awards. [5 U.S.C. 4502; 5 CFR part 451]
- Agencies have discretionary authority to accelerate an employee's pay by granting a **quality step increase.** A quality step increase is an additional step increase that may be granted to an employee who has received the highest rating of record available under the applicable performance appraisal program, which would be "Outstanding" or Level 5 if such a level is available, and has met the agency-developed additional criteria required for programs that don't use a Level 5 summary. These are basic pay increases for all purposes. No more than one quality step increase may be granted within a 52-week period, and such an increase may not cause the employee's pay to exceed the maximum rate of the grade.

[5 U.S.C. 5336; 5 CFR part 531, subpart E]

H. PERFORMANCE DEVELOPMENT & TRAINING

Recent changes to the Government Employees Training Act (GETA) added considerable flexibility for the training that employees may receive. Training can be used as an effective management tool to multi-skill the workforce, improve performance, and recruit and retain quality candidates.

[Contact: Human Resources Development at 202-606-2721]

- Agencies may provide employees any training or education that improves their performance or the performance of the organization and assists in achieving the agency's mission and performance goals.
 [5 U.S.C. 4101]
- Agencies may obtain training or education from the source that best meets their needs with no distinction made between Government and non-Government sources.

[5 U.S.C. 4109]

- Agencies may share the costs of training and education with employees and may reimburse employees for all or part of the costs of successfully completed training and education.
 [5 U.S.C. 4109]
- Agencies determine when continued service agreements are necessary to protect the Government's investment and may apply these agreements to Government or to non-Government training.
 [5 U.S.C. 4108]
- To improve organizational performance in areas of critical skills shortages, agencies may pay for education leading to an academic degree. Merit system principles apply to selecting candidates for academic degree training. [5 U.S.C. 4107]

I. PARTNERSHIP and LABOR-MANAGEMENT RELATIONS

The Center for Partnership and Labor-Management Relations supports the Director of the Office of Personnel Management in her role as principal policy advisor on labor-management relations and enhances agencies' ability to deal effectively with labor-management relations matters by conducting liaison activities with administration and agency officials. We lead the Government in improving operations by helping agencies work effectively with Federal labor organizations that represent 1.1 million Federal employees.

The Center promotes labor-management partnerships and supports the Director in her role as Chair of the National Partnership Council in order to champion effective labor-management relations that promote improved agency performance, including service to the public.

The National Partnership Clearinghouse is a resource for information and guidance on labor-management partnerships. Its services are available to Federal agencies, unions, and the public. For further information, you may contact the Clearinghouse at (202) 606-2940.

J. POOR PERFORMANCE

[Contact: Employee Relations at 202-606-2920]

- Authority exists to take performance-based removal or demotion actions under 5 U.S.C. chapter 43, *Performance Appraisal*. Additionally, agencies have the authority to take performance-based removal, demotion, or suspension actions under 5 U.S.C. chapter 75, *Adverse Actions*. Each method has specific procedural and evidentiary requirements that must be met. [5 U.S.C. 4303 and 7513; 5 CFR parts 432 and 752]
- Once an agency has issued a decision to remove an employee based solely on unacceptable
 performance, the employee may file a request for discontinued service retirement if the age
 and years-of-service requirements are met. However, an employee is not eligible for
 discontinued service retirement if the underlying reason for the removal is misconduct or
 delinquency, including willful refusal to perform.

[5 U.S.C. 8336 and 8414]

• When an employee is determined to be unable to perform his or her duties (including situations where the agency has issued a decision to remove the employee for poor performance) and there is a medical condition that is causing the performance deficiency, the employee may seek our approval of disability retirement. [5 U.S.C. 8337 and 8451]

K. DISPUTE RESOLUTION

[Contact: Employee Relations at 202-606-2920]

• The Office of Personnel Management has abolished the regulations prescribing features of an agency's Administrative Grievance System (AGS). This allows agencies greater flexibility in designing an AGS. (The AGS is used to resolve disputes with non-bargaining unit employees that do not require use of a statutory grievance, complaint, or appeal process, e.g., grievances about merit promotion or performance appraisals.)

[5 CFR part 771; §771.101]

• The Negotiated Grievance Procedure (NGP), used by bargaining unit employees, may be structured through collective bargaining to meet agency and employee interests.

[5 U.S.C. 7121]

• In both the NGP and the AGS, agencies may use a variety of dispute resolution techniques to resolve employee disputes at the lowest possible level, thereby preventing costly and time-consuming formal processes and litigation.

PART III: EXISTING PERSONNEL FLEXIBILITIES AND AUTHORITIES FOR THE SENIOR EXECUTIVE SERVICE

When the Civil Service Reform Act established the Senior Executive Service (SES) in 1978, a corporate SES culture was envisioned, and a distinct personnel system was mandated. The SES was designed to balance overall system uniformity with considerable agency flexibility for individual actions. Managers may exercise these authorities in accordance with law, the regulations, and agency delegations.

[For general questions, contact the Office of Executive Resources Management via email to seshelp@opm.gov]

A. POSITION MANAGEMENT

Within the overall allocation authorized by the Office of Personnel Management, agencies have full responsibility for determining their executive resource priorities and establishing SES positions to meet these priorities. The number of positions established may exceed the number allocated, as long as the number filled does not exceed the allocation.

- Establish SES positions within their allocation. [5 U.S.C. 3133, 5 CFR 214.202]
- Designate positions as General or Career Reserved.

[5 U.S.C. 3132(b)(1), 5 CFR 214.402]

B. STAFFING

The SES offers agency managers considerable flexibility in filling executive vacancies and for resolving executive staffing problems.

1. Recruitment and Appointment

- Decide how positions will be filled (i.e., competitively or noncompetitively) and what recruitment methods will be used. [5 U.S.C. 3132, 3134, 3393]
- Decide whether appointees to General positions should be career, noncareer, or limited.
 [5 U.S.C. 3132, 3143, 3393, 3394]
- Establish qualification standards for SES positions.
 [5 U.S.C. 3392(a); 5 CFR Part 317, Subpart D]
- Establish Executive Resources Boards (ERBs) to conduct the merit staffing process leading to career SES appointments, including determining the area of

consideration, establishing recruitment programs to locate highly qualified candidates, conducting the merit staffing process, evaluating qualifications, rating and ranking applicants, and making selection recommendations to the appointing authority. [5 U.S.C. 3393; 5 CFR Part 317, Subpart E]

- Determine whether candidates meet the qualifications for positions to be filled.
 (Qualifications Review Boards, established by the Office of Personnel
 Management, certify that appointees meet executive qualifications for initial career appointment to the Senior Executive Service.)

 [5 U.S.C. 3393; 5 CFR 317.501]
- Make noncareer appointments without competition, after receiving a noncareer appointment authority from us.
 [5 U.S.C. 3134, 3394]
- Use commercial recruiting firms and nonprofit employment services to recruit for vacancies. [5 CFR Part 300, Subpart D]

2. <u>Short-Term Staffing Needs</u>

• Make limited term appointments (up to three years) to Senior Executive Service (SES) General positions established for temporary project-type work, without competition, using an authority from the limited appointment pool allocated by OPM, or using a specific limited appointment authority from us.

[5 U.S.C. 3132, 3394; 5 CFR 317.601]

• Make limited emergency appointments (up to 18 months) to SES General positions established to meet unanticipated temporary staffing needs, without competition, using an authority from the limited appointment pool allocated by us, or using a specific limited authority from us.

[5 U.S.C. 3132, 3394; 5 CFR 317.601]

• Detail SES members to other SES positions in increments of 120 days; detail SES members to non-SES positions or to unclassified duties for up to 240 days.

[5 CFR 317.903]

3. Lateral Movement

- Reassign career appointees to any SES position in the same agency for which qualified, with advance written notice. [5 U.S.C. 3395(a); 5 CFR 317.901]
- Reassign noncareer appointees to any SES General position in the same agency for which qualified, after receiving approval from us.

[5 U.S.C. 3395(d)(1); 5 CFR 317.901]

- Reassign limited appointees to any SES General position in the same agency that meets the same criteria under which the original appointment was made, without our prior approval. [5 U.S.C. 3395; 5 CFR 317.604]
- Transfer career appointees to an SES position for which qualified in another agency, with the consent of the gaining agency and the employee.

[5 U.S.C. 3395(a)(1); 5 CFR 317.902]

• Transfer noncareer appointees to any SES General position for which qualified in another agency, with approval of the gaining agency and us.

[5 U.S.C. 3395(d)(2); 5 CFR 317.902]

Exception: A career appointee may not be involuntarily reassigned within 120 days of appointment of new agency head or new noncareer supervisor who has authority to make an initial appraisal of the appointee's performance. [5 U.S.C. 3395(e), 5 CFR 317.901]

C. COMPENSATION

Agencies have discretionary authority to set basic SES pay and to provide additional compensation to meet recruitment, relocation, and retention needs. Under 5 U.S.C. 5307, most additional payments are subject to the limitation that aggregate pay may not exceed the rate for Executive Level I (currently \$151,800).

1. Agency-Based Discretionary Authorities

- Set a senior executive's pay at any of the six Senior Executive Service (SES) basic pay rates and adjust that rate upward or downward once in any 12-month period. (Basic pay may be raised any number of rates, but reduced only one rate. Pay for career appointees may be reduced only for performance or disciplinary reasons. Pay for all SES members may be reduced at the executive's request.)
 - [5 U.S.C. 5383(a), (c) and (d); 5 CFR 534.401]
- Provide an advance in pay up to two pay periods to any individual newly-appointed in the agency. [5 U.S.C. 5524a; 5 CFR Part 550, Subpart B]
- Pay recruitment bonuses for new appointees and relocation bonuses for current employees who move to a different commuting area of up to 25 percent of basic pay for difficult to fill positions.

[5 U.S.C. 5753; 5 CFR Part 575, Subparts A and B]

 Pay retention allowances up to 25 percent of basic pay to an employee, when unusually high or unique qualifications of the individual or a special need of the agency makes it essential to retain an individual who would likely leave the government in the absence of an allowance.

- Pay travel expenses of candidates for SES positions for preemployment interviews requested by the agency. [5 U.S.C. 5752; 5 CFR Part 572]
- Pay travel and transportation expenses for new appointees to the first post of duty. (Implementation regulations are issued by the General Services Administration (GSA) as part of Federal Travel Regulations.) [5 U.S.C. 5723; 5 CFR Part 572]
- Pay travel and transportation expenses for career appointees for "last move home." If reassigned or transferred geographically (when eligible for optional or discontinued service retirement or within five years of eligibility for optional retirement), they are entitled to moving expenses at retirement. (Implementation regulations are issued by GSA as part of Federal Travel Regulations.)

 [5 U.S.C. 5724]
- Authorize flexible or compressed work schedules under an alternative work schedule (AWS) for SES members. (SES members may not accumulate credit hours under AWS.)

[5 U.S.C. Chapter 61, Subchapter II; 5 CFR Part 610, Subchapter D]

2. Authorities Available with OPM and/or OMB Approval

- Increase the rate of basic pay up to the rate for Executive Level I, after receiving authorization from the Office of Management and Budget in consultation with us, for positions that require expertise of an extremely high level in a scientific, technical, professional, or administrative field and are critical to the accomplishment of an important agency mission. Critical pay may be granted only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position.

 [5 U.S.C. 5377 and OMB Bulletin 91-09]
- Request us to waive dual compensation requirements for civilian and military retirees, on a case-by-case basis, for employees in positions for which there is exceptional difficulty in recruiting or retaining a qualified employee, or to meet an emergency hiring need as specified in law.

[5 U.S.C. 5532(g); CFR Part 553, Subpart B]

D. PERFORMANCE MANAGEMENT

Performance management in the Senior Executive Service (SES) provides for systematically assessing individual and organizational performance against agency goals and objectives, establishing accountability for achieving results, and linking performance with decisions about pay, awards, and other personnel actions.

1. Performance Planning and Appraisal

- Establish performance management policies and systems to plan for and appraise individual and organizational performance of senior executives. Once we approve an agency performance management plan, the agency has full responsibility for SES performance management. [5 U.S.C. 4312; 5 CFR Part 430, Subpart C]
- Implement performance appraisal including: identifying, establishing, and communicating performance elements and standards for individual executives; monitoring progress and providing feedback to executives; appraising performance against standards annually (with provision for shortening an executive's appraisal period when appropriate); establishing Performance Review Boards to review initial appraisals and make recommendations to the agency head on final ratings and bonuses.

 [5 U.S.C. 4312; 5 CFR Part 430, Subpart C]
- Agency head decisions on ratings, bonuses, or removals based on ratings are not subject to appeal.
 [5 U.S.C. 3592(a)(2), 4312(d), and 5384(b)(2)]

Exception: Performance ratings for career appointees may not be made within 120 days after beginning of a new Presidential administration. [5 U.S.C. 4314(b)]

2. Awards and Recognition

• Pay annual lump sum performance awards (bonuses) to SES career members, after considering the agency Performance Review Board recommendations. Awards may be between 5 percent and 20 percent of basic pay.

[5 U.S.C. 5384; 5 CFR 534.403]

Pay awards for suggestions, inventions, superior accomplishment, productivity gain, or special acts or service. Gainsharing programs may also be used where organizational characteristics permit. [5 U.S.C. Chapter 45; 5 CFR Part 451]

- Nominate career executives for Presidential Rank Awards for sustained accomplishment over an extended period. Distinguished Executives receive 35 percent of basic pay; Meritorious Executives receive 20 percent of basic pay.

 [5 U.S.C. 4507; 5 CFR 451.201(c)]
- Grant time off without charge to leave or loss of pay as an incentive. [5 U.S.C. 4502; 5 CFR 451.104(a)]

3. Performance Development and Training

• Establish programs for the systematic development of candidates for the SES and for the continuing development of senior executives.

[5 U.S.C. 3396; 5 CFR Part 412]

- Provide any training that will assist in achieving the agency's mission and performance goals, with no requirement that training be directly related to "official duties."
 [5 U.S.C. 4103]
- Retrain employees for placement in another agency when such training is in the interest of the Government. [5 U.S.C. 4103]
- Take full advantage of available training sources with no distinction made between Government and non-Government sources. [5 U.S.C. 4105]
- Determine when a "continued service agreement" with an employee is appropriate and apply it to any training to protect the Government's investment.

[5 U.S.C. 4108]

• Grant sabbaticals to career SES members of up to 11 months during any 10-year period for study or uncompensated work experience contributing to the employee's development and effectiveness. The employee retains salary and benefits, and the agency may grant travel and per diem costs. [5 U.S.C. 3396(c)]

4. **Poor Performance**

Agencies have the authority to take performance-based reassignment or removal actions under 5 U.S.C. Chapter 43, Subchapter II, *Performance Appraisal in the SES*. Removal actions have specific procedural and documentation requirements that must be met. After removal, most career appointees will have placement rights to positions at grade 15.

• Reassign appointees to other SES positions and provide assistance in improving performance (e.g., counseling, training, or closer supervision).

[5 U.S.C. 4314; 5 CFR 430.304(h)]

• Remove probationary career appointees from the SES for unacceptable performance, with a one-day advance written notice.

[5 U.S.C. 3592, 4314; 5 CFR 359.402]

• Remove nonprobationary career appointees from the SES for unacceptable performance, with a 30-day advance written notice.

[5 U.S.C. 3592, 4314; 5 CFR 359, Subpart E]

• Remove noncareer and limited appointees from the SES for unacceptable performance, with a one-day advance written notice.

[5 U.S.C. 3592, 4314; 5 CFR 359, Subpart I]

E. OTHER SES REMOVAL ACTIONS

Agencies have the authority to remove executives from the SES for a variety of reasons in addition to unacceptable performance, such as misconduct and reduction-in-force. Each method has specific procedural and evidentiary requirements that must be met. Some executives will have placement rights to grade 15 positions.

 Remove career appointees at any time during the probationary period, with a oneday written notice. The procedural protections and placement rights to which the probationer is entitled are determined by the basis for the removal action and the individual's appointment status just before entering the SES.

[5 U.S.C. 3592; 5 CFR Part 359, Subpart D]

• Remove career appointees for disciplinary reasons (misconduct, neglect of duty, malfeasance, or failure to accept a directed reassignment or to accompany a position in a transfer of function), with a 30-day advance written notice.

[5 U.S.C. 7543; 5 CFR Part 752, Subpart F]

• Remove career executives through reduction-in-force based on competitive procedures. Nonprobationers can be removed if there are no vacant SES positions in the agency for which the executive is qualified and if the Office of Personnel Management has been unable to place the executive in another agency during the 45-day priority placement period.

[5 U.S.C. 3595; 5 CFR Part 359, Subpart F]

• Remove noncareer and limited appointees at any time, with a one-day written notice. (Some limited appointees require additional notice, depending on position held before receiving the limited appointment.)

[5 U.S.C. 3592(c); 5 CFR Part 359, Subpart I, and Part 752, Subpart F]

• Remove reemployed annuitants at any time, with a one-day written notice.

[5 CFR Part 359, Subpart I]

Exception: Career appointees may not be removed during probation, for performance reasons, or for failure to be recertified during 120 days after appointment of new agency head or new noncareer supervisor with removal authority, except where removal is based on an unsatisfactory rating given prior to appointment. [5 U.S.C. 3592; 5 CFR 359.503]